

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Li, Jianghao Attorney Docket No.: TRNDP005
Application No.: 10/042,804 Examiner: ZIA, Syed
Filed: October 29, 2001 Group: 2131
Title: SCRIPTING VIRUS SCAN ENGINE Confirmation No.: 5044

CERTIFICATE OF EFS-WEB TRANSMISSION

I hereby certify that this correspondence is being transmitted electronically through EFS-WEB to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on December 14, 2007.

Signed: /Ann Lowe/ Typed: Ann Lowe

**RESPONSE TO SECOND NOTICE OF NON-COMPLIANT APPEAL BRIEF
(37 CFR 1.121)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This submission is in response to the Notification of Non-compliant Appeal Brief mailed October 17, 2007 (copy attached) in which the replacement section of the Appeal Brief filed June 29, 2007 was deemed defective. It is believed that this response addresses the Notification.

To begin with, Applicant notes that it did not file an entire amended Appeal Brief on June 29, 2007. What Applicant did file was only a replacement section to replace section 5 of the original Appeal Brief filed March 30, 2007. Because the original Notification of Noncompliant Appeal Brief mailed June 1, 2007 only objected to the brief because of a failure to provide a summary of the claimed subject matter required by 37 CFR 41.37(c)(1)(v), Applicant was required to only submit a replacement for that section as discussed by MPEP §1205.03. Thus, Applicant only filed that replacement section on June 29, 2007 as required by the MPEP. The present Notification of Noncompliant Appeal Brief refers to the "Appeal Brief filed on 29 June 2007," but, only a replacement section was filed on that date, not an entire amended Appeal Brief.

Accordingly, Applicant believes that the Office is under the impression that the document filed June 29, 2007 should have been an entire Appeal Brief, when what was filed on June 29, 2007 was simply a replacement section in accordance with the MPEP. Therefore, the Office

must consider both the original Appeal Brief and the replacement section 5 when considering whether the Appeal Brief and the replacement section are in compliance with the rules or not.

The first alleged defect in paragraph 1 of the Notification mailed October 17, 2007 states that the brief does not contain the items required. Applicant submits that when the Office considers both the original Appeal Brief and the replacement section 5 that Applicant has submitted a brief that does comply with this requirement. But, if Applicant is mistaken, Applicant requests that the Office please be more specific and list precisely which items required under the rules are not present in the Appeal Brief and the replacement section.

The second alleged defect in paragraph 6 of the Notification mailed October 17, 2007 states that the brief does not present an argument under separate heading for each ground of rejection on appeal. Paragraph 10 clarifies this alleged defect by pointing out that Ground III, a rejection under §103, is not present in the brief. The Office is referring to the rejection in the final action dated August 23, 2006 appearing at page 13 which is a rejection of claim 6.

Respectfully, Applicant points out that Applicant is aware that this rejection has not been presented on appeal for review. Because Applicant has not presented this specific rejection for review on appeal, Applicant submits that there is no need to present an argument under a separate heading for this ground of rejection. See MPEP §1205.02.

In sum, Applicant has addressed each of the alleged defects found in the Notification at paragraphs 1, 6 and 10, and respectfully submits that the original Appeal Brief and the replacement section 5 filed on June 29, 2007, when taken together, do in fact satisfy all requirements under the rules.

Respectfully submitted,
BEYER WEAVER LLP

/Jonathan O. Scott/

Jonathan O. Scott

Beyer Weaver LLP
P.O. Box 70250
Oakland, CA 94612-0250
Telephone: (612) 252-3330
Facsimile: (612) 825-6304